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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/613,406

07/03/2003

Aaron P. Tondra

2660

4476

7590

12/17/2003

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EXAMINER

FRIEDHOFFER, MICHAEL A

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,406

Applicant(s)

TONDRA ET AL.

Examiner

Michael A. Friedhofer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1125 6) ☐ Other: ____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the phrase "The invention" should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 7 "the upright position" has no antecedent basis.

In claim 1, line 8 "the folded position" has no antecedent basis.

In claim 2, line 3 prior to "one" insert --said--.

In claim 8, line 5 "the machine" has no antecedent basis.

In claim 8, line 7 "the upright position" has no antecedent basis.

In claim 8, line 8 "the folded position" has no antecedent basis.

In claim 9, line 3 prior to "one" insert --said--.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Maurer et al.

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Maurer et al discloses in figures 1-8 a pivoting handle and control arrangement for a vacuum cleaner including a pivoting handle having an upper section 10 and a lower section 12; an actuating rod 66 passing through the upper section; a button 68 located at one end of the actuating rod; and a switch 58 located in the lower section. When the button is pressed, the actuator rod pushes the switch.

Allowable Subject Matter

5. Claims 1 and 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

6. Claims 2-7 and 9-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest a pivoting handle and control arrangement for a machine or appliance that includes an actuator rod passing through the pivoting handle and being in operative engagement with the control device located in the housing of the machine when the handle is in the upright position and is disengaged from the control device when the handle is in the folded position.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. King and Dassi et al teach handles having actuator for the machine located therein. Wolski and Sako teach the use of operators located in location separate from the control device.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Friedhofer whose telephone number is 703-308-3304. The examiner can normally be reached on Mon-Fri 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 703-308-7619. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read "Michael A. Friedhofer". The signature is stylized with a large, looped "M" and a cursive "Friedhofer".

Michael A. Friedhofer
Primary Examiner
Art Unit 2832

maf